

Firearms Law Group
1015 Pacific Avenue, Suite 500
Tacoma, WA 98402
Telephone: (253) 272-4700
Attorney for Diversified Financial, Inc.

Honorable Judge Paul B. Snyder
Hearing Location: Tacoma
Hearing Date: February 19, 2009
Hearing Time: 1:00 pm
Response Date: February 12, 2009

UNITED STATES BANKRUPTCY COURT
DISTRICT OF WESTERN WASHINGTON

In re:

THEODORE LENALL COPELAND

Debtor

CHAPTER 13 BANKRUPTCY

Case No. 08-45008-PBS

DECLARATION OF EMIEL KANDI IN
SUPPORT OF MOTION FOR RELIEF
FROM STAY

I, EMIEL KANDI, being first duly sworn upon oath, depose and say:

1. That I am over the age of 21 years, am not a party to the above captioned action, and am competent to testify to the matters stated herein.

2. I am employed by Diversified Financial, Inc. as a manager. I am familiar with the process by which Diversified Financial, Inc., maintains its loan records. I evaluate the status of loans based upon those records. I personally know that the loans are kept in the course of regularly conducted business and are a matter of business routine. Entries in the records are made at or near the time of the event recorded by or with information from a person with knowledge of the event recorded.

3. As a function of my position, I am further aware of the facts and circumstances surrounding the history of the subject property due to investigations and review of title reports

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1 regularly conducted during the course of business. A copy of the legal description for the
2 subject property has been attached as Exhibit "A."

3 4. The subject property was sold pursuant to a real estate contract dated March
4 20, 1989. The contract was executed by Russ Sutherland and Martha Sutherland as sellers,
5 and Jack Baker, as buyer. The contract was recorded with the Pierce County Auditor under
6 recording number 8903200461. A copy of the real estate contract has been attached as
7 Exhibit "B."

8
9 5. On September 9, 2005, Theodore L. Copeland, purchased the buyer's rights to
10 the contract pursuant to an instrument dated September 9th, 2005 and recorded with the Pierce
11 County auditor on September 12, 2005 under recording number 200509120580. A copy of
12 the assignment from Jack baker to Theodore Copeland has been attached as Exhibit "C."

13
14 6. On June 30, 2008, Ronald Ripley, Attorney for Martha Sutherland recorded a
15 Notice of Intent to Forfeit with the Pierce County Auditor under recording number
16 200806300627. A copy of the Notice of Intent to Forfeit has been attached as Exhibit "D."

17 7. According to the Notice of Intent to Forfeit, Debtor has not paid the monthly
18 amount due and owing since September, 2007.

19 8. Martha Sutherland sold the seller's interest in the property to Diversified
20 Financial, Inc., pursuant to an instrument dated September 30th, 2008, and recorded on with
21 the Pierce County auditor on October 1, 2008 under recording number 200810010021. A copy
22 of the assignment from Martha Sutherland to Diversified Financial has been attached as
23 Exhibit "E."

24
25 9. On October 1, 2008, Diversified Financial recorded a Notice of Forfeiture of
26 Real Estate Contract with the Pierce County Auditor under recording number 200810010022.

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1 A copy of the Notice of Forfeiture executed by Diversified Financial has been attached as
2 Exhibit "F."

3 10. Debtor subsequently filed suit in Pierce County Superior Court under cause
4 number 08-2-13603-1 alleging that the forfeiture was conducted improperly.

5 11. In the interest of good will and to avoid unnecessary legal fees, Diversified
6 Financial reversed the Declaration of Forfeiture on November 19, 2008. The Reversal of
7 Declaration of Forfeiture was recorded with the Pierce County Auditor under recording
8 number 200811190480. A copy of the reversal has been attached as Exhibit "G."

9 12. Debtor has not made any payments to Diversified Financial as required by the
10 terms of the contract. To the best of my knowledge, Debtor has not made any payments under
11 the terms of the real estate contract since September, 2007

12 13. The records possessed by Diversified Financial indicate that the contract (and
13 the subject matter of the present motion) is contractually due for payment.

14 14. The principal balance owed on the loan is \$52,464.65.

15 15. Post-petition arrears currently total \$1,800. If payment is not made on
16 February 1, 2009, post-petition arrears will total \$2,250.

17 16. The property is further encumbered by no less than 4 liens in default of the
18 contract terms. The liens encumbering the subject property total \$14,790.62.

19 **DATED** this 20th day of January, 2009.

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25 EMIEL KANDI
26 For: Diversified Financial, Inc.
Its: Manager

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